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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,076	01/15/2002	Detlef Hutt	HOETRE10USA	3836
270	7590	06/28/2004	EXAMINER	
HOWSON AND HOWSON ONE SPRING HOUSE CORPORATION CENTER BOX 457 321 NORRISTOWN ROAD SPRING HOUSE, PA 19477			SALVATORE, LYNDA	
			ART UNIT	PAPER NUMBER
			1771	
DATE MAILED: 06/28/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

*Handwritten signature*

## Office Action Summary

**Application No.**

10/031,076

**Applicant(s)**

HUTT ET AL.

**Examiner**

Lynda M Salvatore

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 13-16 and 18-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 13-16 and 18-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for continuing examination (RCE), amendments and accompanying remarks filed 06/14/04 have been fully considered and entered. Claims 1,27,31, and 32 have been amended and new claims 33-36 have been added as requested. Currently claims 1,13-16 and 18-36 remain pending. Applicant's arguments with respect to rejections of claims 1,13-16 and 18-32 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1,14,16,18-25, 28-31, and 33-36 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Wong et al., US 6,303,067

The patent issued to Wong et al., teaches a method for biaxially stretching a film comprising a mixture of isotactic polypropylene and another polymer (Title, Column 8, 15-20). Wong et al., further teaches adding various fillers such as polyamide fibers and pigments to the polymer before it is made into an oriented film (Column 8, 50-Column 9, 10). Wong et al., teaches a film thickness ranging from .020 to .064 mm (20-60  $\mu$ m) (Column 12,63-67). Wong et al., illustrates film backing (22) and discloses that the film backing may comprise a bi-layer, tri-layer, or other multi-layer backing one of which layers comprises the biaxially stretched film disclosed (Figure 2, and Column 6, 50-67).

Thus, with specific regard to claims 20-25, the position of the Examiner that the prior art presently meets the limitations of functioning in the capacity of a base layer and/or interlayer within a multi-layer film.

With regard to claims 28-30, Wong et al, does not specifically teach a process for packaging, labeling and laminating a product with the biaxially oriented film, however, it is the position of the Examiner that because the structural and/or chemical limitations are met by the biaxially oriented film taught by Wong et al., said film could function in the desired intended use. Motivation for said argument is found in the desire to provide suitable commercial applications of said biaxially oriented polymer fiber/film.

With regard to claim 16, Wong et al., also teaches adding various inorganic or mineral fibers which would inherently have a melting point higher than the thermoplastic polymer (Column 8,67-Column 9, 5).

With regard to the limitations pertaining to the easy tearability and initial tear strength values recited in claims 1,34,35 and 36, Wong et al., fails to teach said limitations, however, it is reasonable to presume that the film inherently possesses the characteristic of easy tearability and the claimed initial tear strength values. Support for said presumption is found in the use of like materials (e.g., such as a polyamide or mineral fiber filled isotactic polypropylene film) and the use of like processes (e.g., such as biaxially stretching to form a film having the claimed thickness range), which would result in the claimed tearability and tear strength properties. The burden is shifted to Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed tearability and tear strength properties would have obviously been present once the Wong et al., product is provided. *In re Best*, 195 USPQ 433

4. Claims 13,16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al., US 6,303,067 as applied to claim 1 above and further in view of Itakura et al., EP 0940437.

Wong et al., fails to teach the specific amount of fibrous material used, the fiber length and diameter length ratio, however, to Itakura et al., teaches a styrene based resin composition comprising from .001 to 4 parts by weight of fibrous material (Abstract). Suitable fiber materials include whiskers, amorphous fibers and crystalline fibers having a diameter of from .05 to 15 microns, a length from 2 to 100 microns and an aspect ratio of at least 5 (Section 0007). The resulting styrene resin/fiber composition is suitable to extrusion-molded into sheets, which are

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further biaxially stretched to provide a thinner sheets or films (Section 0018). Itakura et al., teaches that the addition of fibrous materials to the styrene-base resin impart surface impact properties to thin-walled molded articles without deteriorating its transparency or moldability (Section 0004-0008).

Therefore motivated by the desire to improve strength and impact properties without deteriorating transparency or moldability, it would have been obvious on one having ordinary skill in the art at the time the invention was made to form the film of Wong et al., with the amount and type fiber materials taught by Itakura et al., EP 0940437

5. Claims 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al., US 6,303,067 as applied to claim 1 above and further in view of Austen et al., US 4,341,827.

Wong et al., fails to teach the claimed film forming process, however, the patent issued to Austen et al., discloses a conventional method used to make very thin films, which includes extruding the polymer film over several chill rolls to solidify and "set" the polymer. The solidified material is passed through another series of rolls and through nip rolls to apply tension, resulting in a uniaxial orientation. Stretching the film perpendicular to the direction of the uniaxial forms biaxially stretched film (Column 2, 48-65).

Therefore, motivated by the desire to provide a thin biaxially stretched film, it would have been obvious to one having ordinary skill in the art at the time the invention was made form film of Wong et al, using the conventional method taught by Austen et al.

6. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wong et al., US 6,303,067 as applied to claim 1 above and further in view of Hatke et al., US 6,551,653.

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Wong et al., fails to teach a biaxially oriented metallized polymer film, however, the patent issued to Hatke et al., teaches a method for preparing a metallized polymer film and further biaxially stretching in the machine and cross direction (Claim 1 and Column 6, 10-20). Hatke et al., teaches that metallized films are useful as dielectrics in capacitors (Abstract). Factors such as having a good dissipation factor, good heat resistance and sufficient mechanical stability are important physical characteristics (Column 1, 10-15).

Therefore, motivated to provide an a polymer film having a good dissipation factor, heat resistance, and mechanical stability, it would have been obvious to one having ordinary skill in the art at the time the invention was made to employ the teachings of Hatke et al., and metallize the biaxially oriented polymer film of the of Wong et al.

#### ***Conclusion***

57. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1482. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 22, 2004

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